

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LYNN A. JONES and DEPARTMENT OF DEFENSE,  
DEFENSE LOGISTICS AGENCY, Norfolk, VA

*Docket No. 97-2072; Submitted on the Record;  
Issued August 20, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly refused to pay medical expenses incurred by appellant while he was treated by a chiropractor.

Appellant injured his back when he fell at the employing establishment on January 8, 1996. He stopped work on January 10, 1996 and returned to work on January 12, 1996. Dr. Paul R. Temple, a chiropractor, stated in a January 24, 1996 report that appellant fell at work on January 8, 1996 and had acute spasm of the cervical and lumbar spine and subluxation at C6 and L5. He noted in section 14 of the medical form that there was an x-ray report attached to his report. Appellant also submitted a January 10, 1996 medical report from Dr. Lawrence R. Morales, Board-certified in orthopedic surgery, who stated that appellant had injured his back at work on January 8, 1996 and determined that he had cervical muscle strain. Dr. Morales noted that appellant's cervical x-rays were normal.

The Office, on May 7, 1996 accepted appellant's claim for back and cervical strains. On the same day the Office notified appellant that it declined to pay Dr. Temple's bills because his medical report did not establish the existence of spinal subluxation. The Office advised appellant that chiropractic expenses are reimbursable when restricted to "manual manipulation of the spine to correct a subluxation of the spine as demonstrated by x-rays to exist."<sup>1</sup> To the extent that the report submitted by Dr. Temple did not satisfy this standard, his request for reimbursement was denied.

On April 3, 1997 appellant submitted *via* facsimile transmission copies of chiropractic bills from January 16, 1996 to February 12, 1997. The record also contains an April 2, 1997 x-ray report read by Dr. Man Hyong Kim, Board-certified in diagnostic radiology, who stated that the x-rays revealed "normal veterbral alignment without evidence for subluxation to suggest instability."

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<sup>1</sup> 5 U.S.C. § 8101(2), 20 C.F.R. § 10.400(a).

In a letter decision dated April 18, 1997, the Office denied appellant's request for reimbursement of chiropractic expenses.

The Board finds that the Office properly refused to pay the bills submitted by Dr. Temple for his treatment of appellant. In all the evidence and x-ray reports of record, there is no indication that appellant sustained or was treated for a subluxation of the spine as a result of his January 8, 1996 injury. None of the reports mention a subluxation of the spine. Therefore, under 5 U.S.C. § 8101(2) and 20 C.F.R. § 10.401(a), payment to a chiropractor for services rendered in this case cannot be authorized.

The decision of the Office of Workers' Compensation Programs dated April 18, 1997 is affirmed.<sup>2</sup>

Dated, Washington, D.C.  
August 20, 1999

George E. Rivers  
Member

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>2</sup> The Board notes that subsequent to the Office's April 18, 1997 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).